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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/602,194

06/23/2003

Yoshi Ono

SLA 0669

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27518

7590

03/15/2005

DAVID C RIPMA, PATENT COUNSEL
SHARP LABORATORIES OF AMERICA
5750 NW PACIFIC RIM BLVD
CAMAS, WA 98607

EXAMINER

NGUYEN, KHIEM D

ART UNIT

PAPER NUMBER

2823

DATE MAILED: 03/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary	Application No. 10/602,194	Applicant(s) ONO, YOSHI	
	Examiner Khiem D. Nguyen	Art Unit 2823	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,7-11 and 13-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,7-11 and 13-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 11th, 2005 has been entered. A new rejection is made as set forth in this Office Action. Claims (1-5, 7-11, and 13-21) are pending in the application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

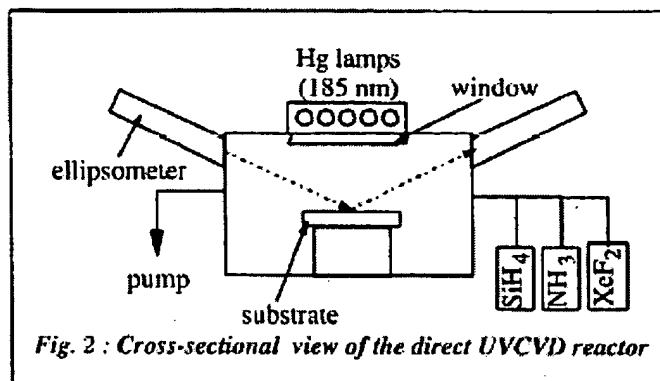
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 2, 7-9 and 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Chun et al. ("In-situ surface preparation of InP-based semiconductor prior to direct UVCVD silicon nitride deposition for passivation purposes").

In re claims 1, 2, and 9, Chun discloses a method of low-temperature nitridation of a silicon substrate comprising:

placing a silicon wafer (substrate) in a vacuum chamber on a heated chuck (page 412 and FIG. 2);



maintaining the silicon wafer at a temperature of between about room temperature and 200°C (page 413);

introducing a nitrogen-containing gas into the vacuum chamber, wherein the nitrogen-containing gas is taken from the group of gases consisting of NH₃ (page 413);

dissociating the nitrogen-containing gas into nitrogen with a xenon excimer lamp operating at a wavelength of 185 nm, and flowing the nitrogen over the silicon wafer; and

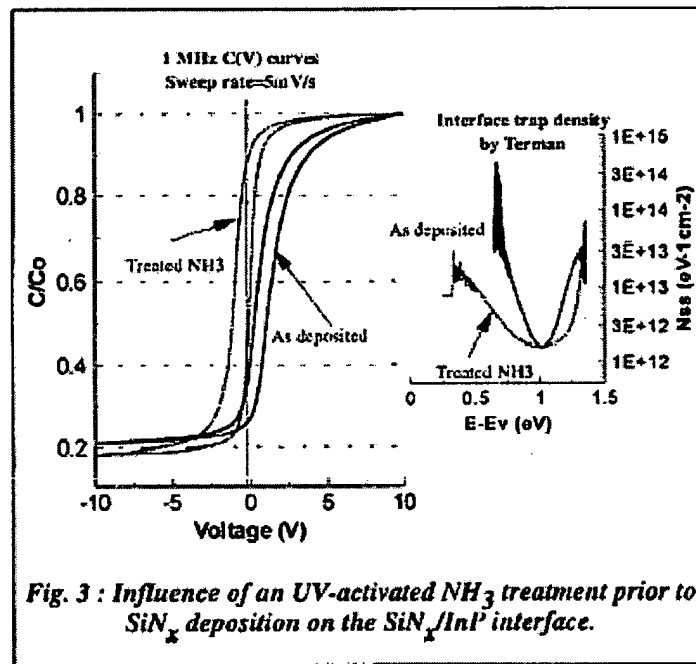
forming an silicon nitride layer on at least a portion of the silicon wafer, wherein the silicon nitride layer is formed from silicon in the silicon wafer and nitrogen from the dissociated nitrogen-containing gas, and wherein the silicon nitride layer so formed has a thickness of less than 10 nm (page 414).

Note that, there is no evidence indicating the ranges of the wavelength of the xenon excimer lamp, the pressure in the vacuum chamber, and the thickness of the silicon nitride layer is critical and it has been held that it is not inventive to discover the optimum or workable range of a result-effective variable within given prior art conditions by routine experimentation. See MPEP § 2144.05. Note that the specification contains no disclosure of either the critical nature of the claimed dimensions of any unexpected

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results arising there from. Where patentability is aid to be based upon particular chosen dimensions or upon another variable recited in a claim, the Applicant must show that the chosen dimensions are critical. In re Woodruff, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936 (Fed. Cir. 1990).

In re claims 7 and 14, Chun discloses that the forming includes providing a positively charged interface across the nitride layer (page 413 and FIG. 3).



In re claims 8 and 15, Chun discloses wherein placing includes placing a silicon wafer having a layer of silicon oxide on the upper surface thereof in a vacuum chamber (page 412).

In re claim 16, Chun discloses a method of low-temperature nitridation of a silicon substrate comprising:

placing a silicon wafer (substrate) in a vacuum chamber on a heated chuck (page 412 and FIG. 2);

maintaining the silicon wafer at a temperature of between about room temperature and 200°C (page 413);

providing a positively charged interface across the nitride layer (page 413 and FIG. 3);

introducing a nitrogen-containing gas into the vacuum chamber (page 413);

dissociating the nitrogen-containing gas into nitrogen with a xenon excimer lamp operating at a wavelength of 185 nm, and flowing the nitrogen over the silicon wafer; and

forming an silicon nitride layer on at least a portion of the silicon wafer, wherein the silicon nitride layer is formed from silicon in the silicon wafer and nitrogen from the dissociated nitrogen-containing gas, and wherein the silicon nitride layer so formed has a thickness of less than 10 nm (page 414).

Note that, there is no evidence indicating the ranges of the wavelength of the xenon excimer lamp, and the thickness of the silicon nitride layer is critical and it has been held that it is not inventive to discover the optimum or workable range of a result-effective variable within given prior art conditions by routine experimentation. See MPEP § 2144.05. Note that the specification contains no disclosure of either the critical nature of the claimed dimensions of any unexpected results arising there from. Where patentability is aid to be based upon particular chosen dimensions or upon another variable recited in a claim, the Applicant must show that the chosen dimensions are critical. In re Woodruff, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936 (Fed. Cir. 1990).

In re claim 17, Chun discloses that the nitrogen-containing gas is taken from the group of gases consisting of NH₃ (page 413).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 3-5, 10, 11, 13 and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chun et al. ("In-situ surface preparation of InP-based semiconductor prior to direct UVCVD silicon nitride deposition for passivation purposes").

In re claims 3-5, 10, 11, 13, and 18-21 there is no evidence indicating the ranges of the gas flow rate, the time duration, the thickness of the silicon nitride layer, and the vacuum chamber pressure is critical and it has been held that it is not inventive to discover the optimum or workable range of a result-effective variable within given prior art conditions by routine experimentation. See MPEP § 2144.05.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khiem D. Nguyen whose telephone number is (571) 272-1865. The examiner can normally be reached on Monday-Friday (8:00 AM - 5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Olik Chaudhuri can be reached on (571) 272-1855. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

K.N.
March 09th, 2005



W. DAVID COLEMAN
PRIMARY EXAMINER